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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,493	04/11/2001	Branko D. Kovacevic	ATL0100330	2976
34456	7590	09/16/2005	EXAMINER	
TOLER & LARSON & ABEL L.L.P. 5000 PLAZA ON THE LAKE STE 265 AUSTIN, TX 78746			RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/833,493

Applicant(s)

KOVACEVIC, BRANKO D.

Examiner

Daniel J. Ryman

Art Unit

2665

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 7-28 and 31-56.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

HUY D. VU

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: As a preliminary matter, Applicant's amendment overcomes the objection to claim 51.

Applicant asserts that Har-Chen does not disclose "sample rate conversion" since Har-Chen does not disclose "filtering and/or some form of interpolation that results in a smoothing of the resulting upsampled or downsampled output." However, as pointed out in the last Office Action, Applicant never defines "sample rate conversion" as "filtering and/or some form of interpolation." Therefore, Examiner is free to broadly interpret this term in any manner consistent with the term. Examiner has already presented his reasoning in the last Office Action as to why Har-Chen reads on this limitation, and so Examiner will rely on that explanation to rebut Applicant's current assertion. Further, since Applicant has presented no evidence as to why the term "sample rate conversion" should be defined according to Applicant's definition, Examiner maintains that "filtering and/or some form of interpolation" is not the only definition of "sample rate conversion." If Applicant wishes for a particular definition to be applied to the term "sample rate conversion," then Applicant should include this definition in the claims.

Applicant further asserts that "the Office Action fails to point to any reference or disclosure within Har-Chen to support [the conclusion that the second playback adjustment is obvious]". Again, Examiner, respectfully, disagrees. Examiner explicitly cites multiple passages in Har-Chen, such as col. 6, lines 18-33 and col. 6, line 63-col. 7, line 9, to support Examiner's conclusion. If Applicant wishes to pursue this argument, Applicant should argue against any possible deficiencies in Examiner's rationale for concluding that the second playback adjustment is obvious rather than merely asserting that Examiner has not cited any passages to support this conclusion.

Applicant additionally asserts that there is no motivation to compare the PTS value to the LTC rather than a PCR value to the LTC. Again, Examiner, respectfully, disagrees. Maturi explicitly discloses that the PTS values indicate "desired presentation times for the respective data units" (abstract). Thus, by using the PTS value, the system can determine if a particular value meets its desired presentation time and then use this information in determining whether to repeat or delete a sample.